

REMARKS

Upon entry of this amendment, Claims 1 and 16-22 are cancelled. Claims 2-8, 10-15 and 23-26 are currently amended.

In response to the Restriction and/or Election Requirement mailed August 8, 2008, the Examiner concluded that the application contained more than one species of the generic invention. The Examiner also concluded that the species lacked unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1. Applicants elect the following species with traverse:

- 1(a) - directed to tularensis subspecies strain; and
- 2(a) -directed to gene, purF.

Based on the Species Election above in response to the Election Requirement, and the claim amendments provided herein, the following claims are readable on the elected species. Claims 2-7, 9-15 and 23-26.

Applicants respectfully submit that the claim amendments are made to incorporate standard U.S. patent prosecution method-based claim language and remove European 'first medical use' language from the claims.

Applicants respectfully submit that the Election Requirement is made with traverse because the Examiner has incorrectly surmised that the species lack unity of invention.

Firstly, applicants submit that the Examiner states that **at least one generic invention exists** (see page 2, first full sentence of Species Election/Restriction Section and page 3 of the Office Action, wherein the Examiner states **Claims 1, 9, 16, 23 and 25 are generic**). Applicants note that if a generic invention exists, applicants are entitled to examination of the claims on the merits. Additionally, upon allowance of a generic claim, applicants will be entitled to consideration of claims with additional species that are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

The Examiner proposed an Election Restriction on the basis that the claims to the species themselves include more than one species and that each “species is different structurally, chemically and has different properties one from the others”. Applicants respectfully disagree.

It is applicants’ position that each species share a “special technical feature”. The species of the group share common features in the context of the **claimed method**, in that, **each species acts as a protective vaccine against a similar genus of organism**. Thus, it cannot be accurately concluded that each species has “different properties one from the others”. Accordingly, applicants respectfully assert that the species have **unity of invention** and kindly request withdrawal of the Election Requirement.

CONCLUSION

Based upon the remarks provided above, applicants believe that the pending claims are in condition for allowance. A Notice of Allowance is therefore respectfully solicited.

No additional fees are believed due; however, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment, to Deposit Account No. 11-0855.

If the Examiner believes any informalities remain in the application that may be corrected by Examiner's Amendment, or there are any other issues that can be resolved by telephone interview, a telephone call to the undersigned agent at (404) 815-6473 is respectfully solicited.

Respectfully submitted,

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